

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Joe Soward Construction)
Dist. 8, Map 6, Control Map 6, Parcel 1.00P,) Sevier County
S.I. 000)
Commercial Property)
Tax Years 2002 through 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued for each tax year at issue as follows:

TOTAL VALUE

\$430,278

ASSESSMENT

\$129,083

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on August 29, 2006 in Knoxville, Tennessee. The taxpayer, Joe Soward, represented himself. The assessor of property, Johnny King, represented himself and was assisted by his chief deputy, JoAnn Watson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of various items of tangible personal property used by the taxpayer in his construction business.

Subject personalty was originally forced assessed each year by the assessor. The forced assessment each year reflected an appraised value of \$22,750 and an assessment of \$6,825.

Subject account was selected for audit by Mendola & Associates. The taxpayer was unable to meet with the auditor on the scheduled date of the audit because his father-in-law was gravely ill.¹ The auditor was unaware of the taxpayer's actual assets and recommended a revised appraisal of \$430,278 based upon the reporting of other construction companies in Sevier County.

On April 10, 2006 the assessor of property issued a back assessment/reassessment reflecting the recommended revised appraisal of \$430,278. The taxpayer filed a timely appeal with the State Board of Equalization which was received on April 27, 2006.²

The parties were in agreement that the amount of the back assessment/reassessment is grossly excessive because Mr. Soward does not have the assets a larger construction company typically possesses. The parties originally stipulated that an appraised value of

¹ Indeed, Mr. Soward's father-in-law died shortly thereafter.

² The administrative judge finds that no jurisdictional issue exists insofar as appealing the back assessment/reassessment is concerned.

\$23,639 appeared appropriate given Mr. Soward's actual assets. For administrative convenience, however, the parties indicated a willingness to stipulate to a composite value of \$22,000 each year rather than apply different depreciation rates for each year. This reflects the fact that the differences in value from 2002-2005 would be de minimis.

The administrative judge finds it most appropriate to reinstate the prior appraised value of \$22,750 for each year at issue. The administrative judge finds that it would be inappropriate to adopt a value below the forced assessments. The basis for this conclusion was summarized by Administrative Judge Pete Loesch in *Hollywood Cinema* (Shelby Co., Tax Years 1999 & 2000). That decision is appended to this order and hereby incorporated by reference.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2002 through 2005:

<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$22,750	\$6,825

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 7th day of September, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Joe Soward
Johnny D. King, Assessor of Property